ATTORNEY DOCKET
NO. 2771CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Martin P. Madden	)	
	)	
SERIAL NO.: New Application (continuation)	)	
	)	Group No.: 2765
FILED: November 13, 2001	)	
	)	Examiner: _____
FOR: SYSTEM AND METHOD FOR	)	
IMPLEMENTING A MORTGAGE PLAN	)	Attorney Docket No.: 2771CON

PRELIMINARY RULE 115 AMENDMENT

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

Please accept this Preliminary Amendment, prior to the receipt of any Office Action in this continuation application of Serial No. 09/298,767, filed April 23, 1999, now U.S. Patent No. _________. A Supplemental Information Disclosure Statement is concurrently filed herewith.

IN THE SPECIFICATION:

Delete page 5, line 17 through page 6, line 12, and insert the following in its place:

– The return on a mortgage, or any investment, is measured by the average annual cash flow to the investor (adjusted for time and risk) relative to the amount

initially invested. Former mortgage plans have ignored the value of maximizing the risk-adjusted return on mortgage financing by separating, as completely as possible, the compensation component of the cash flow returned to the investor from the repayment of the initial principal. By avoiding required monthly installments consisting of both compensation in the form of interest figured on the remaining principal outstanding and repayment of some portion of the remaining principal, the homeowner's current payment burden can be minimized. In addition, the separation of compensation from original principal repayment can actually expand the amount of original financing extended, thus increasing the homebuyer's purchasing capacity, as well as providing a superior risk-adjusted return to the mortgage investor. --

At page 12, line 5, delete "EPC" and insert therefor – EPMO –.

IN THE CLAIMS:

Please amend Claims 1 and 10, as follows:

1. (Amended) A method of using a computer system for implementing a mortgage plan and preparing mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage, the mortgage plan including an equity participation mortgage obligation, comprising the steps of:

inputting data into the computer system regarding the terms of the mortgage, including the principal amount and an [the] amortization period;

using the computer system to calculate annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation; and

using the computer system to prepare one or more [a] mortgage documents which [includes] specify the equity participation mortgage obligation [and which specifies], and that the

lender may share in a predetermined percentage of realized appreciation on subsequent sale of the asset which is the subject of the mortgage.

10. (Amended) A computer system for implementing a mortgage plan and preparing mortgage documents specifying payment obligations of a borrower to a lender <u>concerning an asset which is subject to a mortgage</u>, the mortgage plan including an equity participation mortgage obligation, comprising:

at least one computer including a central processing unit and a memory, for receiving data regarding the terms of the mortgage, including the principal amount and <u>an</u> [the] amortization period, within the computer system;

the at least one computer calculating annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation, and preparing one or more mortgage documents which include the equity participation mortgage obligation and which specify that the lender may share in a predetermined percentage of realized appreciation on subsequent sale of the asset which is subject to the mortgage<u>, and that timing of equity participation with the lender is indeterminable, may occur prior to the maturity date, and is controlled by the borrower</u>.

Please add new Claims 11-23, as follows:

11. A method of using a computer system for implementing a mortgage plan and

or preparing one or more mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage having a maturity date, the mortgage plan specifying an equity participation mortgage obligation in which the lender receives a predetermined portion of realized appreciation in the asset during the life of the mortgage, comprising the steps of:

inputting data into the computer system regarding the terms of the mortgage, including the principal amount and an amortization period;

calculating annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation; and

preparing the one or more mortgage documents, the one or more mortgage documents specifying: the equity participation mortgage obligation; that the lender shares in a predetermined percentage of the realized appreciation on subsequent sale of the asset which is the subject of the mortgage; that timing of equity participation with the lender is indeterminable, may occur prior to the maturity date, and is controlled by the borrower; and that prior to sale or maturity of the asset, the amount of principal paid by the borrower pursuant to the mortgage exceeds the amount of current interest paid by the borrower.

12. The method of Claim 11, wherein the one or more mortgage documents also specify that the borrower incurs a financial penalty for an early sale of the asset.

13. The method of Claim 12, wherein the mortgage terms include a down payment by

the borrower, and wherein the penalty is the forfeiture of a predetermined percentage of the down payment.

14. The method of Claim 12, wherein the penalty continuously declines over a predetermined initial term of the mortgage.

15. The method of Claim 11, wherein the one or more mortgage documents also specify a termination date for the mortgage which is synchronous with the sale of the asset subject to the mortgage.

16. The method of Claim 11, wherein the one or more mortgage documents also specify that repayment of any existing principal is synchronized with sale of the asset subject to the mortgage.

17. A method of using a computer system for implementing a mortgage plan and for preparing one or more mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage, the mortgage plan specifying an equity participation mortgage obligation in which the lender receives a predetermined portion of realized appreciation in the asset during the life of the mortgage, comprising the steps of:

inputting data into the computer system regarding the terms of the mortgage, including the principal amount and an amortization period;

calculating annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation; and

preparing the one or more mortgage documents, the one or more mortgage documents specifying: the equity participation mortgage obligation; that the lender shares in a predetermined percentage of the realized appreciation on subsequent sale of the asset which is the subject of the mortgage; and that timing of equity participation with the lender is indeterminable, may occur prior to the sale of the asset, and is controlled by the borrower;

wherein the lender receives capital gain tax treatment on its portion of the realized appreciation of the asset upon the sale or transfer of the asset.

18. The method of Claim 17, further comprising the steps of:

calculating the average mortgage principal outstanding during the amortization period; and

preparing one or more mortgage documents which, upon sale of the asset, limit the lender's share of the realized appreciation of the asset to an Amortization Period Return.

19. The method of Claim 18, wherein the mortgage documents do not specify a maturity date and the sale of the asset occurs after the amortization period has been completed, and further comprising the step of preparing the one or more mortgage documents to specify that the lender's share of the realized appreciation of the asset comprises the sum of the Amortization Period Return and a Post-Amortization Period Return.

20. The method of Claim 18, wherein the lender's share of the realized appreciation of the asset comprises the lesser of: (1) a specified percentage of the total realized appreciation value; or (2) the sum of the Amortization Period Return and the Post-Amortization Period Return.

21. A method of using a computer system for implementing a mortgage plan and for preparing one or more mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage which need not have a maturity date, the mortgage plan specifying an equity participation mortgage obligation in which the lender receives a predetermined portion of realized appreciation in the asset during the life of the mortgage, comprising the steps of:

inputting data into the computer system regarding the terms of the mortgage, including the principal amount and the amortization period;

calculating annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation; and

preparing the one or more mortgage documents, the one or more mortgage documents specifying: the equity participation mortgage obligation; that the lender shares in a predetermined percentage of the realized appreciation on subsequent sale of the asset which is the subject of the mortgage; that timing of equity participation with the lender is indeterminable, may occur prior to the asset sale or maturity date, if applicable, and is controlled by the borrower;

and that prior to sale or transfer of the asset, the entire amount of the mortgage payments made by the borrower are applied to the principal amount.

22. An equity participation mortgage obligation concerning an asset which is subject to a mortgage, the mortgage obligation comprising and specifying:

payment obligations of a borrower to a lender concerning the asset;

mortgage terms, including a principal amount and an amortization period;

principal and periodic payment obligations of the borrower accruing under the mortgage obligation;

that the lender may share in a predetermined percentage of realized appreciation on subsequent sale of the asset which is the subject of the mortgage; and

that the timing of equity participation with the lender is indeterminable, and may occur prior to the maturity date

23. The equity participation mortgage obligation of Claim 22, further comprising and specifying that the timing of equity participation with the lender is controlled by the borrower.

Remarks

Claims 1 and 10 have been revised, and new Claims 11-23 have been added.

A Supplemental Information Disclosure Statement is concurrently filed herewith.

Clarifying revisions to the specification have been made. The revisions are believed to be

fully supported by the specification as originally filed.

A "clean" version of the amended claims follows this page. Clean and marked-up copies of the specification follow, as well.

If the next written communication is intended to be other than a notice of allowance of the pending claims, the Examiner is requested to contact the undersigned to discuss the case before sending any further written communication.

Respectfully submitted,

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Dated: November 21, 2001

Attorney for Applicant

"Clean" version of amended claims

1. A method of using a computer system for implementing a mortgage plan and preparing mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage, the mortgage plan including an equity participation mortgage obligation, comprising the steps of:

inputting data into the computer system regarding the terms of the mortgage, including the principal amount and an amortization period;

using the computer system to calculate annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation; and

using the computer system to prepare one or more mortgage documents which specify the equity participation mortgage obligation, and that the lender may share in a predetermined percentage of realized appreciation on subsequent sale of the asset which is the subject of the mortgage.

10. A computer system for implementing a mortgage plan and preparing mortgage documents specifying payment obligations of a borrower to a lender concerning an asset which is subject to a mortgage, the mortgage plan including an equity participation mortgage obligation, comprising:

at least one computer including a central processing unit and a memory, for receiving data regarding the terms of the mortgage, including the principal amount and an amortization period, within the computer system;

the at least one computer calculating annual average principal and periodic payment obligations of the borrower accruing under the mortgage obligation, and preparing one or more mortgage documents which include the equity participation mortgage obligation and which specify that the lender may share in a predetermined percentage of realized appreciation on subsequent sale of the asset which is subject to the mortgage, and that timing of equity participation with the lender is indeterminable, may occur prior to the maturity date, and is controlled by the borrower.

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Amended Specification

Marked Copy

Beginning at Page 5, line 17

[The return on a mortgage, or any investment, can be measured as:

$$\frac{\text{Average Annual Profit}}{\text{Average Annual Principal}}$$

What former mortgage plans ignore is the value of maximizing the return by manipulating the denominator, annual average principal, so that it is repaid much more rapidly, and on or near a straight line amortization basis. This can only be done by removing current interest paid on outstanding principal or making it an inconsequential component of investor compensation. When this is done, even a relatively small average annual profit generation, which would be insufficient for mortgages with back-loaded returns of principal, produces a satisfactory return.

Under existing mortgage plans, the only way to speed the return of principal to the lender is by drastically increasing the size of the monthly payment, or conversely, drastically lowering the initial mortgage principal lent. Doing so either creates an unaffordable monthly payment burden, or substantially diminishes the borrower's purchasing capacity. In either case, the principal return remains significantly back-loaded and non-linear so that the average principal outstanding during the amortization period is a larger percentage of the original balance.]

The return on a mortgage, or any investment, is measured by the average annual cash flow

to the investor (adjusted for time and risk) relative to the amount initially invested. Former mortgage plans have ignored the value of maximizing the risk-adjusted return on mortgage financing by separating, as completely as possible, the compensation component of the cash flow returned to the investor from the repayment of the initial principal. By avoiding required monthly installments consisting of both compensation in the form of interest figured on the remaining principal outstanding and repayment of some portion of the remaining principal, the homeowner's current payment burden can be minimized. In addition, the separation of compensation from original principal repayment can actually expand the amount of original financing extended, thus increasing the homebuyer's purchasing capacity, as well as providing a superior risk-adjusted return to the mortgage investor.

Beginning at Page 12, line 5

Using the system of the present invention, then, the [EPC] EPMO permits the lender in this example to realize an average rate of return of 10.316%, which is obtained by dividing the annual appreciation of $12,895 by the average principal balance of $125,000.

Serial No.: New CON of 09/298767 Application
Amended Specification

Clean Copy

Beginning at Page 5, line 17

The return on a mortgage, or any investment, is measured by the average annual cash flow to the investor (adjusted for time and risk) relative to the amount initially invested. Former mortgage plans have ignored the value of maximizing the risk-adjusted return on mortgage financing by separating, as completely as possible, the compensation component of the cash flow returned to the investor from the repayment of the initial principal. By avoiding required monthly installments consisting of both compensation in the form of interest figured on the remaining principal outstanding and repayment of some portion of the remaining principal, the homeowner's current payment burden can be minimized. In addition, the separation of compensation from original principal repayment can actually expand the amount of original financing extended, thus increasing the homebuyer's purchasing capacity, as well as providing a superior risk-adjusted return to the mortgage investor.

Beginning at Page 12, line 5

Using the system of the present invention, then, the EPMO permits the lender in this example to realize an average rate of return of 10.316%, which is obtained by dividing the annual appreciation of $12,895 by the average principal balance of $125,000.